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March 1, 2006

Victoria Ruston, Chief  
Section of Environmental Analysis  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423

Finance Docket No. 33407 – Powder River Basin Expansion Project  
Third Party Contractor Assistance  
Federal Railroad Administration Section 4(f) Analysis

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Dear Ms. Rutson:

As you know, Burns & McDonnell, under a Memorandum of Understanding (MOU) between the Surface Transportation Board (STB), Dakota, Minnesota & Eastern Railroad Corporation (DM&E), and Burns & McDonnell executed in March 2004, has been serving as the third party contractor assisting the STB's Section of Environmental Analysis (SEA) for the preparation of the Supplemental Environmental Impact Statement (SEIS) for the proposed Powder River Basin Expansion Project. As the third party contractor for the SEIS, as well as the previous EIS prepared for the project, Burns & McDonnell has extensive and unique knowledge of the project and the environmental documentation prepared as part of the EIS process.

Although the EIS and subsequent SEIS prepared for this project were extensive and addressed numerous and varied issues, concerns, and requirements (including those of the five cooperating agencies), no evaluation under Section 4(f) of the Transportation Act was determined necessary for SEA's environmental evaluation of the proposed project. Therefore, no Section 4(f) evaluation was conducted.

Recently, we have learned that DM&E is seeking funding for the proposed project from the Federal Railroad Administration (FRA) under the Railroad Rehabilitation and Improvement Fund (RRIF). As part of the review of DM&E's RRIF loan application, FRA has determined an environmental review and evaluation is required. While FRA feels it can adopt SEA's EIS and SEIS for the proposed project, FRA must also complete a Section 4(f) evaluation. FRA has asked Burns & McDonnell if we would be able to serve as a third party contractor to FRA to assist FRA in preparing the Section 4(f) evaluation. FRA is interested in using Burns & McDonnell because of our extensive knowledge of the EIS for the DM&E proposal.

As specified in our existing MOU with the STB and DM&E, Section III.E. subpart (1), Burns & McDonnell may not engage in work for other parties related to the proposed Project. However, based on our understanding of the Section 4(f) evaluation required for



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this project, we do not believe that assisting FRA, as their third party contractor, would violate the term and conditions of the existing MOU. Essentially, all the information required for the Section 4(f) analysis is included in the EIS for the proposed project. Our role in working with FRA would be primarily to assist them in identifying those areas of the EIS where the pertinent information is located and re-formatting the work that has already been completed into a format suitable for the Section 4(f) analysis. No additional work or analysis beyond that already contained in the EIS would be necessary or required. In sum, our assistance to FRA would be to provide knowledge of the content of the EIS, therefore, we do not believe that our work with FRA would conflict with the terms of our existing MOU with you.

Additionally, following our assistance to FRA for completion of the Section 4(f) analysis, our role in the process would be completed and no additional work or services to FRA would be required.

We request your approval for Burns & McDonnell to serve as FRA's third party contractor for the purpose outlined above.

We appreciate your consideration of this matter. Please contact me at (816) 822-3851 if you have any questions or require additional information.

Sincerely,

Stephen G. Thornhill  
Project Manager – Environmental Studies and Permitting